

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

-----X
JASON CUEVAS,

Plaintiff,

-against-

THE CITY OF NEW YORK, DETECTIVE ODALIS PEREZ OF NARCBX, SHIELD #7037, DET. JOSE A. PEINAN OF NARCBX, SHIELD #2276 AND THE UNDERCOVER OFFICER/DETECTIVE WHO WAS THE GHOST ON DOCKET #2011BX059587 & ARREST #B11685344 S/H/A JOHN/JANE DOE I,

Defendants.
-----X

Index No.: 305271-2012
Law Dept #2012-029380

JUDGMENT & BILL OF COSTS

RECEIVED BY:

FEB 07 2014

Judgment Department

The issues in this action were duly settled at an Early Settlement Conference with Assistant Corporation Counsel Gianna Famulari of the NYC Corporation Counsel's Office on October 8, 2013 at 100 Church Street, New York, New York 10007 and the Plaintiff and Defendants having appeared by their respective attorneys, **PAPA, DEPAOLA AND BROUNSTEIN**, by **JOHN R. DEPAOLA** for Plaintiff and **CORPORATION COUNSEL OF THE CITY OF NEW YORK**, by an Assistant Corporation Counsel Gianna Famulari of the Corporation Counsel and all claims were settled for the sum of Forty Five Thousand Dollars (\$45,000) for plaintiff. The Plaintiff, as required by CPLR Section 5003(a) has tendered, via certified mail, return receipt requested, a general release, affidavit of no liens and a stipulation discontinuing the action in duplicate. Pursuant to Section CPLR 5003-a subdiv b, the City of New York had ninety (90) days to properly pay the monies due, after the above documents were tendered. The documents were tendered on October 9, 2013 and actually received on October 10, 2013 by the City of New York as per the exhibits annexed to Counsel's affirmation. Plaintiff's costs and disbursements and taxed by the Clerk are in the amount of \$ **550.00.**

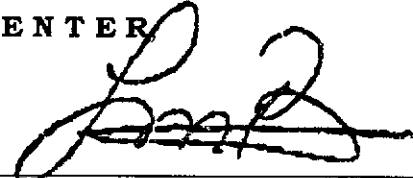
NOW, on application of **PAPA, DEPAOLA AND BROUNSTEIN**, attorneys for the Plaintiffs, it is

ORDERED, ADJUDGED and DECREED, that Plaintiff recover of Defendant, **CITY OF NEW YORK** the sum of Forty Five Thousand Dollars (\$45,000) with pre-entry of judgment interest from October 9, 2013 to February 10, 2014 at a rate of nine (9%) percent for a total of \$136,125 and with post-entry of judgment interest from October 9, 2013 to the date of payment at a per diem rate of \$11.25 pursuant to CPLR 5002 and 5003 together with costs and disbursements as taxed by the Clerk of the Court in the sum of \$550.00 for Plaintiff, for a total of \$46,911.25 shall be awarded to

Plaintiff Jason Cuevas, 2634 Decatur Avenue, Apt 2, Bronx, New York 10458. The defendant's address is NYC Corporation Counsel, 100 Church Street, New York, New York 10007.

SO ORDERED:

ENTER



CLERK OF THE SUPREME COURT
OF THE CITY OF NEW YORK

SUPREME COURT
COUNTY OF BRONX

JASON CUEVAS,

Plaintiff(s)

against

CITY OF NEW YORK, ET AL

Defendant(s)

Costs of

COSTS

Costs before note of issue.....	\$ 200	00
CPLR §8201 subd. 1		
Costs after note of issue.....		
CPLR §8201 subd. 2		
Trial of issue.....		
CPLR §8201 subd. 3		
Allowance by statute.....		
CPLR §8302(a)(b)		
Additional allowance.....		
CPLR §8302(d)		
Motion costs.....		
CPLR §8202		
Appeal to Appellate Term		
CPLR §8203(b)		
Appeal to Appellate Division		
CPLR §8203(a)		
Appeal to Court of Appeals		
before argument		
CPLR §8204 subd. 1		
Appeal to Court of Appeals		
for argument		
CPLR §8204 subd. 2		
COSTS.....	200	00
DISBURSEMENTS.....	350	00
TOTAL.....	\$ 550	00

DISBURSEMENTS

Fee for index number.....	CPLR §8018(a).....
Referee's fees.....	CPLR §8301(a)1.....
Commissioner's compensation.....	CPLR §8301(a)2.....
Clerk's fee, filing notice of pend. or attach.	CPLR §8075(c) §8021(a)12.....
Clerk's fee cancel notice of pend.	CPLR §8021(a)12.....
Entering and docketing judgment.....	CPLR §8301(a)7 §8016(a)3.....
Paid for searches.....	CPLR §8301(a)10.....
Affidavits & acknowledgments.....	CPLR §8000.....
Serving copy summons & complaint.....	CPLR §8011(c)1 §8301(d).....
Note of issue.....	CPLR §8020(a).....
Paid referee's report.....	CPLR §8301(a)12.....
Certified copies of papers.....	CPLR §8301(a)4.....
Satisfaction of judgment.....	CPLR §8021.....
Transcripts.....	CPLR §8021.....
Certified copy of judgment.....	CPLR §8021.....
Postage.....	CPLR §8021.....
Jury fee.....	CPLR §8021.....
Stenographic.....	CPLR §8000 §8301.....
Sheriff's fees on execution.....	CPLR §8011(b) §8012.....
Sheriff's fees, attachment, arrest, etc.	CPLR §8011(a)(c)2, 3(g).....
Paid printing cases.....	CPLR §8301(a)6.....
Paid printing case.....	CPLR §8301(a)6.....
Clerk's fees Court of Appeals.....	CPLR §8301(a)12.....
Paid copies of papers.....	CPLR §8016(a)4.....
Motion expenses.....	CPLR §8301(b).....
Fees for publication.....	CPLR §8301(a)3.....
Serving subpoena.....	CPLR §8011(c)1 §8301(d).....
Paid for Register's Search.....	CPLR §8301(a)10.....
" " County Clerk's Search.....	
" " Local Commissioner's Search.....	
" " U.S. District Court Search.....	
" " U.S. Circuit Court Search.....	
" " Tax Search.....	
" " Referee's Report.....	
Attendance of Witnesses.....	CPLR §8001(a)(b)(c) §8301(a)1.....

Stipulation of Discontinuance

\$ 210.00

60 00

45 00

35 00

\$ 350.00

STATE OF NEW YORK, COUNTY OF QUEENS

ss.

ATTORNEY'S AFFIRMATION

The undersigned, an attorney admitted to practice in the courts of this state, affirms: that he is

the attorney(s) of record for the **JOHN R DEPAOLA** in the above entitled action; that the foregoing disbursements have been or will necessarily be made or incurred in this action and are reasonable in amount and that each of the persons named as witnesses, attended as such witness on the trial, hearing or examination before trial herein the number of days set opposite their names; that each of said persons resided the number of miles set opposite their names, from the place of said trial, hearing or examination; and each of said persons, as such witness as aforesaid necessarily traveled the number of miles so set opposite their names, in traveling to, and the same distance in returning from the same place of trial, hearing or examination; and that copies of documents or papers as charged herein were actually and necessarily obtained for use.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Dated:

Jan. 28, 2014

The name signed must be printed beneath

JOHN R DEPAOLA

Index No.

SUPREME COURT
COUNTY OF BRONX

JASON CUEVAS,

Plaintiff(s)

against

CITY OF NEW YORK,

Defendant(s)

Bill of Costs

And Notice of Taxation

Sir: Please Take Notice that the within is a true copy of the items of costs and disbursements in the within action ~~and that the same will be taxed~~ by the Clerk of Court, in his office in the courthouse thereof on the 19th day of ~~January~~ ^{February} 2014 at ~~that day~~ ^{that day} and the amount inserted in the judgment, hours, etc.

PAPA DEPAOLA AND BROUNSTEIN

42-40 BELL BLVD
BAYSIDE NY 11361
718 281-4000
To

Attorney(s) for

Service of the within bill of costs and notice of taxation is hereby admitted this 19th day of

Attorney(s) for

* Strike out one (GLR §8-02 §8-03)

State of New York, County of QUEENS

being duly sworn, **YESENIA SALCEDO**, the deponent is not a party to the action, is over 18 years of age and resides at

That on the 28th day of JANUARY 2014 19th deponent served the within bill of costs and notice of taxation on

attorney(s) for
herein, at his office at

100 CHURCH STREET, NY NY 10007

during his absence from said office

(a) by then and there leaving a true copy of the same with

his clerk; partner; person having charge of said office,

(b) and said office being closed, by depositing a true copy of same, enclosed in a sealed wrapper directed to said

attorney(s), in the office letter drop or box.

Sworn to before me, this 19th day of

MADELINE M. WRZESC

NOTARY PUBLIC - STATE OF NEW YORK

NO. 01WR4970587

QUALIFIED IN QUEENS COUNTY
MY COMMISSION EXPIRES AUGUST 13, 2014

State of New York, County of

ss.

being duly sworn, deposes and says; that deponent is not a party to the action, is over 18 years of age and resides at

That on the 19th day of deponent served the within bill of costs and notice of taxation on

attorney(s) for
at

the address designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a postpaid properly addressed wrapper, in a post office—official depository under the exclusive care and custody of the United States Postal Service within New York State.

Sworn to before me, this 19th day of

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX**

Index No.: 305271-2012
Law Dept #2012-029380

-----X
JASON CUEVAS,

Plaintiff,

-against-

**AFFIRMATION IN
SUPPORT OF
JUDGMENT**

**THE CITY OF NEW YORK, DETECTIVE ODALIS
PEREZ OF NARCBX, SHIELD #7037, DET. JOSE A.
PEINAN OF NARCBX, SHIELD #2276 AND THE
UNDERCOVER OFFICER/DETECTIVE WHO WAS
THE GHOST ON DOCKET #2011BX059587 &
ARREST #B11685344 S/H/A JOHN/JANE DOE I,**

Defendants.
-----X

JOHN R. DEPAOLA, an attorney duly admitted to practice law before the Courts of the State of New York affirms the following under penalties of perjury pursuant to CPLR 2106.

1. That I am a partner with the law firm of **Papa, DePaola and Brounstein**, the attorneys of record for the Plaintiff herein and as such am fully familiar with the facts and circumstances of this case based on my conversations with the Plaintiff, employees of the City of New York and documents contained in my file.

PROCEDURAL HISTORY

2. This is an action based on an assault, battery, false arrest, false imprisonment, illegal search and seizure and violations of civil and constitutional rights pursuant to 42 U.S.C. Section 1983 which occurred on October 24, 2011, at approximately 5:15 pm in the vicinity of Ryer Avenue between 182nd Street and Field Place, County of Bronx, State of New York.

3. This case was settled at a early settlement conference on October 9, 2013 with Assistant Corporation Counsel Gianna Famulari of the NYC Corporation Counsel in the amount of Forty Five Thousand Dollars (\$45,000) for plaintiff. To date, payment has not been received for either plaintiff ,thus, necessitating this motion.
4. Pursuant to CPLR 5003(a) the Plaintiff, through my office, tendered a General Release, Affidavit of No Liens and Stipulation of Discontinuance. These documents were all sent via certified mail on October 9, 2013 and received on October 10, 2013 by the City of New York, see **Exhibit One**. Pursuant to CPLR 5003 (a) the City of New York had ninety (90) days from the date the settlement documents were tendered to pay the settlement amount. That date being January 9, 2014, see Exhibit One. This date has come and passed without payment by the City of New York.
5. As of this writing, the City of New York has not tendered payment. My office has called the City of New York on several occasions as well as E-mailed the City of New York on several occasions wherein we were advised that the check would be forwarded to the NYC Comptroller's Office for payment.
6. Pursuant to CPLR 5003 (a) the City of New York had ninety (90) days from the date the settlement papers were received for the immediate approval for payment. With the City of New York failing to pay the agreed upon settlement monies within the ninety (90) day period beginning on October 9, 2013 and ending on January 9, 2014 the City

is in default and pursuant to CPLR 5003 (e) this application need not be done on notice to the city.

7. As a courtesy we have provided a copy of this application and judgment which we will submit on January 28, 2014 to the Clerk of the Court for entering of the Judgment with a Bill of Costs. We have further submitted a Bill of Costs with receipt for the index number, RJI and serving of the Summons as ***Exhibit Two***.

WHEREFORE, the Plaintiff requests that the Clerk of the Court enter judgment and grant such further relief that is just and fair, including costs and attorneys fees for the applicable.

Dated: Bayside, New York
January 28, 2014

Yours, etc.



PAPA, DEPAOLA AND BROUNSTEIN

BY: JOHN R. DEPAOLA

42-40 Bell Boulevard
Bayside, New York 11361
718-281-4000

TO: **CORPORATION COUNSEL OF THE
CITY OF NEW YORK**
100 Church Street
New York, NY 10007